IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA)		
	Plaintiff,) 8:08CR345)
	vs.) DETENTION ORDER
SE	RGIO PENA-ZAVALA,	
	Defendant.	}
A.	Order For Detention After waiving a detention hearing pursuant Act on September 24, 2008, the Court ord pursuant to 18 U.S.C. § 3142(e) and (i).	
B.	 Statement Of Reasons For The Detention The Court orders the defendant's detention because it finds: X By a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the defendant as required. X By clear and convincing evidence that no condition or combination of conditions will reasonably assure the safety of any other person or the community. 	
C.	distribute methamphetant carries a minimum sent maximum of life imprise distribute methamphetant 841(a)(1) carries a minimand a maximum of fort possession of a firearm of carries a mandatory minimates a mandatory minimates a mandatory minimates a crime of the drug trafful (b) The offense is a crime of the offense involves a new carries a mandatory minimates a mandatory minimates a mandatory minimates a crime of the offense involves a new carries a minimates a minimate involves and a maximum of life imprise	and includes the following: e offense charged: y to distribute and possess with intent to nine (Count I) in violation of 21 U.S.C. § 846 tence of ten years imprisonment and a conment; the possession with intent to nine (Count IV) in violation of 21 U.S.C. § num sentence of five years imprisonment y years imprisonment; the carrying and during a drug trafficking offense (Count V) nimum of five years consecutive to any ficking charge.
	may affect wheth The defendant h X The defendant h X The defendant h X The defendant is The defendant of ties. Past conduct of The defendant h	of the defendant including: appears to have a mental condition which her the defendant will appear. has no family ties in the area. has no steady employment. has no substantial financial resources. Is not a long time resident of the community. has not have any significant community.

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,	The defendant has a significant prior criminal record. The defendant has a prior record of failure to appear at court proceedings. At the time of the current arrest, the defendant was on: Probation Parole Release pending trial, sentence, appeal or completion of sentence. Other Factors: X The defendant is an illegal alien and is subject to deportation. The defendant is a legal alien and will be subject to deportation if convicted. X The Bureau of Immigration and Custom Enforcement (BICE) has placed a detainer with the U.S. Marshal. Other:
	nature and seriousness of the danger posed by the defendant's se are as follows: The nature of the charges in the Indictment.
In det on the which <u>X</u> (a)	ermining that the defendant should be detained, the Court also relied following rebuttable presumption(s) contained in 18 U.S.C. § 3142(e) the Court finds the defendant has not rebutted: That no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of any other person and the community because the Court finds that the crime involves: X (1) A crime of violence; or X (2) An offense for which the maximum penalty is life imprisonment or death; or X (3) A controlled substance violation which has a maximum penalty of 10 years or more; or (4) A felony after the defendant had been convicted of two or more prior offenses described in (1) through (3) above, and the defendant has a prior conviction for one of the crimes mentioned in (1) through (3) above which is less than five years old and which was committed while the defendant was on pretrial release.
X (b)	That no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because the Court finds that there is probable cause to believe: X (1) That the defendant has committed a controlled substance violation which has a maximum penalty of 10 years or more. X (2) That the defendant has committed an offense under 18 U.S.C. § 924(c) (uses or carries a firearm during and in relation to any crime of violence, including a crime of violence, which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device).

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- The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable from persons awaiting or serving sentences or being held in custody pending appeal; and
- 2. The defendant be afforded reasonable opportunity for private consultation with counsel; and
- 3. That, on order of a court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED: September 24, 2008. BY THE COURT:

s/Thomas D. Thalken United States Magistrate Judge